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FISCAL IMPACT STATEMENT

LS 6435

BILL NUMBER: SB 348

NOTE PREPARED: Jan 9, 2008

BILL AMENDED:

SUBJECT: Child Product Safety.

FIRST AUTHOR: Sen. Young R

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits a person from manufacturing, remanufacturing, retrofitting, distributing, selling at wholesale or retail, contracting to sell or resell, leasing, subletting, or otherwise placing into the stream of commerce an unsafe children's product.

It requires the State Department of Health to: (1) create and maintain a list of unsafe children's products; (2) update the list within 24 hours after identifying an unsafe children's product; (3) make the list available to the public and on the State Department's Internet web site; and (4) print information regarding the list of unsafe children's products.

The bill requires certain business entities to provide notice to commercial customers and consumers and meet other requirements regarding unsafe children's products. It also prohibits a child care facility from having an unsafe children's product on the premises of the child care facility. It requires: (1) the owner of a child care facility to post a written notice in the child care facility concerning unsafe children's products; and (2) the Division of Family Resources (Division) to provide certain information to licensed and registered child care facilities.

This bill allows the Division to take disciplinary action against a child care facility for violating the children's product safety laws. The bill also provides that a person who violates the children's product safety laws is subject to a maximum civil penalty of \$500 for each day of violation.

The bill provides that the Attorney General may: (1) bring an action to enforce a penalty; (2) require a person to provide certain statements and information; (3) examine a person under oath; (4) examine certain materials; (5) seize and retain records, books, documents, accounts, papers, or samples of merchandise; and

(6) bring an action for an injunction. It allows the Attorney General to accept an assurance of voluntary compliance. It also provides that a violation of the assurance is prima facie evidence that a person has violated the children's product safety laws.

Effective Date: Upon passage.

Explanation of State Expenditures: *Indiana State Department of Health Requirements:* This bill requires the Indiana State Department of Health (ISDH) to: (1) create and maintain a comprehensive list of children's products that ISDH has identified as unsafe; (2) update the list not later than 24 hours after ISDH has identified a children's product as unsafe; (3) make the comprehensive list available to the public; (4) post the comprehensive list on the ISDH web site on the Internet; and (5) print information regarding the comprehensive list in regular publications or mailings to persons, including pediatricians, local health departments, and other similar persons or entities.

ISDH reports that there are different methods they can take to meet the requirements of this bill. If ISDH were allowed to monitor the website provided by the federal government that has unsafe children's products, duplicate this database, maintain this database, and notify local health departments via fax or provide information on its own website, the total cost for this activity would be \$154,000 for the first year. If ISDH were to use the 2008 budget request from the U.S. Consumer Product Safety Commission for the line item costs associated with identifying product hazards to children and families, the cost to the state would be approximately \$13 M per year.

The bill specifically states that ISDH would be required to create and maintain a comprehensive list of unsafe children's products. Currently, ISDH only maintains a link on their website to the federal list of unsafe children's products. The ISDH reports that the cost of maintaining their current link to the U.S. Consumer Product Safety Commission's website would be negligible. ISDH does not currently have the capacity to connect to a real-time database that ISDH would be required to maintain. This would require the ISDH to have an updated and housed database on the web for public viewing. The requirement that ISDH mail notices to primary care physicians, pediatricians, and pediatric subspecialties at least twice a year would require 8,662 pieces of mail at a cost of \$1,187 per year.

Division of Family Resources: The bill requires the Division of Family Resources (DFR) to: (1) notify a licensed or registered child care facility of the children's product safety requirements and (2) provide a licensed or registered child care facility with the list of unsafe children's products maintained by ISDH. The DFR should be able to do this within its existing level of resources.

Attorney General: A person that violates the children's product guidelines is subject to a civil penalty in an amount not to exceed \$500 for each day that the violation continues. The bill allows the Attorney General to bring an action to enforce a civil penalty for violating the provisions of the legislation. The provisions will increase the workload of the Attorney General to the extent that licensed child care facilities are found to use unsafe children's products.

These provisions may increase state expenditures if the Attorney General is unable to prove in civil court that the child care center was in violation. A court may order the recovery of reasonable costs associated with the civil action which may increase state expenditures depending on the case outcome of any action filed. Actual increases in state expenditures will depend on trial outcome and judicial discretion with regards to awards, but are expected to be small.

Background Information: ISDH maintains links to the Consumer Product Safety Commission and federal government product recall web site on its web page. Currently, ISDH does not maintain lists of unsafe children's products, but rather provides links to the federal government's list of unsafe children's products.

DFR reports that as of December 2006, there were 604 licensed child care centers, 3,017 licensed child care homes, and 667 registered ministries that provide child care. Currently, when FSSA receives notice of unsafe children's products, they inform licensed child care providers of these changes. FSSA can sanction providers that fail to remove these items with a general environment/safety regulation violation. FSSA reports that they do not currently distribute listings of recalled children's products.

Explanation of State Revenues: The Attorney General is immune from civil costs fees associated with filing a civil law suit. State revenue from civil actions will increase as a result of (1) a court finding a licensed child care center in violation of the legislation and (2) the total days the center was found in violation.

Explanation of Local Expenditures: This bill will increase caseloads for local courts of jurisdiction to the extent that the Attorney General files cases in civil court.

Explanation of Local Revenues:

State Agencies Affected: ISDH; Family and Social Services Administration; Attorney General.

Local Agencies Affected:

Information Sources: Debbie Sampson, FSSA; Scott Zarazee, ISDH.

Fiscal Analyst: Bill Brumbach, 232-9559.